Ministry of
Municipal Affairs
and Housing

Ontario

THE
PLANNING
ACT

GUIDELINE 6

Official Plan Policies on Public Notice

August 1983

1 INTRODUCTION

The new Planning Act places responsibility for land use planning directly with elected municipal councils. Part of this responsibility includes the holding of a public meeting before decisions are made on matters involving official plans, community improvement plans and zoning by-laws. The new legislation provides for this public meeting to be held after at least 30 days notice given in the manner and to persons as set out in the regulations.

In the case of official plans, the regulation allows for the giving of notice by one of two methods: either (i) publication in a newspaper, or (ii) individual notices. Individual notices are to be given by personal service or prepaid first class mail to owners of land within the area to which the proposal applies and those within 120 metres. Individual notices are also given to persons and agencies who have made a written request for notice to the clerk.

In the case of zoning by-laws, the regulation allows notice to be given in one of three ways:

- by newspaper; or
- by individual notice to owners of land within the area to which the proposal applies and those within 120 metres. In such instances, a sign also must be posted on each property or at a nearby location chosen by the clerk; or
- by individual notice to those persons shown on the assessment roll who are within the area to which the proposal applies and those within 120 metres.

As well, individual notices are given to persons and agencies who have made a written request for notice to the clerk.

Because there may be instances where it may be appropriate to reduce the 30 day period of notice required by the Act and/or some aspect(s) of the notification procedure in the regulations, sections 17(4), 28(4) and 34(14) of the Act give municipalities the choice of using their own procedures for public notice instead of the Act and regulations. The details of these alternative procedures, however, must be established in the municipality's official plan. Accordingly, this guideline is intended to assist municipalities in preparing official plan policies for these procedures.

The guideline recognizes that municipalities may wish to tailor the policies to the type of proposal, the most effective use of resources, and established local practice. It therefore provides general guidance on the issues which may be addressed. Specific alternative policies for public notice are not provided, in order to allow municipalities to develop policies which are appropriate for their situations.

2 BASIS FOR POLICY DEVELOPMENT

Before a municipality decides to prepare official plan policies for public notice, it should determine if the 30 day notice period and/or the procedures prescribed by the regulations are suitable. If they are, no policies need be prepared. However, if the municipality wants to have notification procedures which are less stringent, official plan policies must be developed.

The rationale for developing official plan policies for public notice may be based on the following considerations:

- Does council wish to give less than 30 days notice of public meetings for certain proposals? Does council wish to relate the reduced notice period to the cycle of council and/or committee meetings?

- Would means of notice other than those in the regulations be more appropriate for providing notice for certain types of proposals?

- Do some proposals lend themselves to less extensive notification while giving individuals a fair opportunity to make representations to council?

- Should there be a provision for consulting the public again on a substantially revised proposal? If the official plan policy does not provide for notice of council's reconsideration of the proposal, the Act and the regulations will apply.

Municipalities should keep the following three points in mind when preparing official plan policies:

- Council is responsible for the final municipal decision on planning proposals. Accordingly, it must give individuals a fair opportunity to present their views, as required by section 60 of the new Planning Act.

- Before making the final decision on a planning proposal, council must hold a meeting to hear the views of the public. Section 106 of the Municipal Act R.S.O. 1980 permits this public meeting to be held by a committee of council if council assigns this function to such a committee by by-law. In order to allow the municipal planning process to flow as smoothly as possible, this meeting can be part of a regular council or committee meeting; a separate or additional public meeting is not required.

- The only alternative procedures requiring official plan policies are those which are less restrictive than the 30 day notice period in the Act and/or some aspect(s) of the regulations. If a municipality wants to develop procedures which are more stringent or detailed than the regulations, this can be done outside of the official plan to give more flexibility in varying procedures for different proposals.

3 GUIDELINES TO POLICY PREPARATION

The official plan policies for public notice should clearly indicate if the alternative procedures will be used instead of the Act (i.e. 30 day notice period) and regulations, or in conjunction with them. For example, if a municipality wishes only to reduce the notice period and use the regulations, the official plan policy should indicate this.

The policies may include one procedure for all, or separate procedures for each, of the following:

- comprehensive zoning by-law

- official plan amendment

- zoning by-law amendment

- community improvement plan
- community improvement plan amendment

Because extensive notification normally occurs for public meetings on comprehensive by-laws, this type of by-law should be subject to the regulations for notice. However, for the other planning documents, the official plan policies could address any of the following:

- the public meeting
- the period for advance notice
- the means of notice
- the persons to be notified
- the notification for subsequent meetings should council make a change to the proposal.

Municipalities may have to bring any existing municipal procedural by-law into conformity with the public involvement procedures in the official plan when they are approved. Accordingly, any conflicts with the procedural by-law should be identified when the official plan policies on public involvement are being drafted.

Public Meetings

As a basic principle, the public must be given an opportunity to present its views at a public meeting held either by full council or a committee of council. If a committee of council holds the public meeting it has to forward a written report to council as required in section 106(2) of the Municipal Act, R.S.O. 1980.

It is recognized that a municipality may arrange for public involvement in its planning process (e.g. meetings held by a planning advisory committee or staff) in addition to the public meeting which is the responsibility of council. However, the official plan policy should only elaborate on the procedural steps relating to the public meeting held by council or committee of council.

Period for Advance Notice

Since the Act requires that notice of the public meeting be given at least 30 days in advance, the alternative procedures should only indicate which proposals will be subject to less than this provision and define the lesser notice period(s). The length of advance notice may vary with the type of proposal and may be timed to fit with the regular cycle of committee and/or council meetings. However, the time period must give the public sufficient time to receive the notice, arrange to be present at the meeting and prepare their views.

The only exception may be in the case of proposals involving non-substantive changes where, because the principle of section 60 of the Act will likely not be breached, the notice period can be greatly reduced or eliminated. However, the ministry will review very carefully any official plan policies which propose the elimination of an advance notice, in order to ensure that the principle of section 60 is not compromised.

Means of Notice

Notice of the public meeting should be given for all proposals. The procedures may include means of notice other than those required in the regulations. They could also require that the means of notice in the regulations be used for certain types of proposals with flyers or other methods used for others. As a basic principle, any means of notice should indicate the nature and location of the proposal and the time, date and location of the public meeting to be held by council or the committee of council.

Persons to be Notified

The persons to be notified of the public meeting may vary from those indicated in the regulations. It should not contain boards, commissions, authorities or agencies since council is required to provide information on proposals to these bodies (sections 17(5) and 34(15) of the Act). The official plan policy for any individual notices should provide for notice to land owners within the area of the proposal. It should also include land owners either immediately adjacent to the area of the proposal or within a specified distance of the site of the proposal if council wishes to reduce the 120 metre distance contained in the regulations.

Notification criteria may be included in the policies to take into account the nature of proposals and consequently who should be notified. For example, the policies may require that a site specific proposal be subject to a notification list which is less than that in the regulations. Notification covering a wider area than the regulations require may be undertaken at the municipality's discretion. However, the alternative procedures should require notification of all individuals who have made a written request to the clerk to be notified of the meeting if the regulations are not to be followed.

Notification for Subsequent Meetings

Section 34(16) of the Act gives councils discretion in determining whether or not to consult the public on changes to a proposed zoning by-law. When the changes to the by-law are substantive, council should be aware of the need to fulfill the requirements of section 60 of the Act by providing the same members of the public with another opportunity to make representation. However, unless there are alternative procedures in the form of official plan policies, the requirement of the public meeting with 30 days notice given according to the regulation applies. To expedite the renotification process, a municipality could develop alternative procedures with respect to the period for advance notice for successive meetings. Where the period for advance notice for initial proposals is less than 30 days a municipality could use that period as a standard notice period for council meetings on all proposals and word the official plan policy accordingly. In this case the reduced notice period would also apply to revised proposals.

There is no specific provision in the Act that the public be consulted again on proposed official plan amendments or community improvement plan matters which have changed substantially as a result of a public meeting. However, the provisions of section 60 of the Act imply that further consultation is appropriate. A municipality could therefore develop alternative procedures for renotification on these matters as well.

4 CONCLUSION

Municipalities and planning boards have the opportunity to include, in their official plan, the type of public involvement policies best suited to their needs if the regulations are not appropriate. This guideline has suggested which matters should be taken into account in preparing these policies. In order to discuss specific procedures and official plan policies, staff of the Plans Administration Branch and the Community Planning Advisory Branch of the ministry should be consulted.

Since each municipality will have to include its own requirements in these policies it should also consult its solicitor to satisfy itself that the principles of the new Planning Act are not compromised.

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
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2nd floor
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Telephone: (416) 224-7635
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South East Region
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